

1 AARON D. FORD
 Attorney General
 2 PETER E. DUNKLEY, Bar No. 11110
 Deputy Attorney General
 3 State of Nevada
 Public Safety Division
 4 100 N. Carson Street
 Carson City, NV 89701-4717
 5 Tel: (775) 684-1259
 E-mail: pdunkley@ag.nv.gov

6 *Attorneys for Defendants*
 7 *Marsha Johns*

FILED	RECEIVED
ENTERED	SERVED ON
COUNSEL/PARTIES OF RECORD	
SEP 20 2019	
CLERK US DISTRICT COURT	
DISTRICT OF NEVADA	
BY:	DEPUTY

8
 9
 10 AZUJHON KENNETH SIMS,
 Plaintiff,
 11
 12 vs.
 13 ROMEO ARANAS, et al.,
 Defendants.
 14

Case No. 3:17-cv-00543-RCJ-CBC

ORDER

**DEFENDANT'S MOTION FOR
 ENLARGEMENT OF TIME TO FILE A
 DISPOSITIVE MOTION
 (First Request)**

15 Defendant, Marsha Johns, by and through counsel, Aaron D. Ford, Nevada Attorney General,
 16 and Peter E. Dunkley, Deputy Attorney General, hereby move this Court for an order enlarging the time
 17 for Defendant to file an answer. This Motion is made pursuant to Federal Rule of Civil Procedure
 18 ("Fed. R. Civ. Proc.") 6(b) and is based upon the following Points and Authorities and all pleadings and
 19 papers on file herein. This Motion is made in good faith and not for the purposes of undue delay.
 20 Defendant requests an additional fourteen (14) days to file an answer to Plaintiff's four (4) part
 21 complaint, (ECF Nos. 9, 9-1, 9-2, 9-3).

22 **MEMORANDUM OF POINTS AND AUTHORITIES**

23 **I. RELEVANT FACTS AND PROCEDURAL HISTORY**

24 This is an inmate civil rights lawsuit brought by Plaintiff Azujhon Sims ("Plaintiff"), pursuant to
 25 42 U.S.C. § 1983, and the Eighth Amendment to the U.S. Constitution regarding the handling of his
 26 medical requests. Plaintiff was an inmate in the lawful custody of the Nevada Department of
 27 Corrections ("NDOC"). (See generally, ECF No. 9.)

28 ///

1 The Complaint, filed in four parts, contains more than 100 pages. (See ECF No. 9 (16 pp.) 9-1
2 (30 pp.), 9-2 (30 pp.), and 9-3 (39 pp.).)

3 On August 30, 2019, a summons and proof of service of Defendant Johns was filed (ECF No.
4 26). An answer to the complaint is due today.

5 **II. LEGAL STANDARD**

6 District courts have inherent power to control their dockets. *Hamilton Copper & Steel Corp. v.*
7 *Primary Steel, Inc.*, 898 F.2d 1428, 1429 (9th Cir. 1990); *Oliva v. Sullivan*, 958 F.2d 272, 273 (9th Cir.
8 1992). Fed. R. Civ. P. 6(b)(1) governs enlargements of time and provides as follows:

9 When an act may or must be done within a specified time, the court may,
10 for good cause, extend the time: (A) with or without motion or notice if
11 the court acts, or if a request is made, before the original time or its
extension expires; or (B) on motion made after the time has expired if the
party failed to act because of excusable neglect.

12 “The proper procedure, when additional time for any purpose is needed, is to present to the
13 Court a timely request for an extension before the time fixed has expired (i.e., a request presented
14 before the time then fixed for the purpose in question has expired).” *Canup v. Miss. Valley Barge Line*
15 *Co.*, 31 F.R.D. 282, 283 (D. Pa. 1962). The *Canup* Court explained that “the practicalities of life” (such
16 as an attorney’s “conflicting professional engagements” or personal commitments such as vacations,
17 family activities, illnesses, or death) often necessitate an enlargement of time to comply with a court
18 deadline. *Id.* Extensions of time “usually are granted upon a showing of good cause, if timely made.”
19 *Creedon v. Taubman*, 8 F.R.D. 268, 269 (D. Ohio 1947). The good cause standard considers a party’s
20 diligence in seeking the continuance or extension. *See, e.g., Johnson v. Mammoth Recreations, Inc.*,
21 975 F.2d 604, 609 (9th Cir. 1992).

22 **III. DISCUSSION**

23 Defendant’s deadline to file an answer is today, September 19, 2019. As the deadline has not yet
24 expired, Defendant must therefore demonstrate good cause for the requested enlargement. Good cause
25 exists to enlarge the time for Defendant to file an answer because counsel has only been recently employed
26 with the Office of the Attorney General and been assigned this case. (See Notice of Change of Deputy
27 Attorney General, ECF No. 27.) Counsel for the Defendant needs additional time to evaluate the merits of

28 ///

1 the case, discuss the allegations with the Defendant, and time to evaluate potential defenses and affirmative
2 defenses in order to answer the complaint.

3 Additionally, counsel has been assigned many cases wherein many deadlines were set prior to their
4 assignment to the undersigned, and counsel has not had sufficient time to become familiar with the cases
5 and their respective deadlines, including this case and this deadline.

6 Defendant is seeking this enlargement in good faith and not for the purpose of any unnecessary
7 delay. Moreover, Defendant does not perceive any possible prejudice to Plaintiff if this motion is
8 granted. Therefore, Defendant request an additional fourteen (14) days to file an answer and be
9 allowed up to and including Thursday, October 3, 2019, to file an answer.

10 **IV. CONCLUSION**

11 As stated, Defendant needs additional time to file an answer based on their counsel's recent
12 assignment to the case. Accordingly, Defendant respectfully request this Honorable Court grant this
13 motion and allow Defendant up to and including Thursday, October 3, 2019, to file an answer.

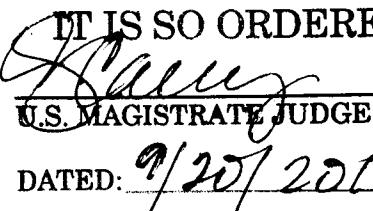
14 DATED this 19th day of September, 2019.

15 AARON D. FORD
16 Attorney General

17 By: /s/ Peter E. Dunkley
18 PETER E. DUNKLEY, Bar No. 11110
Deputy Attorney General

19 *Attorneys for Defendant*

21 **IT IS SO ORDERED**

22 
23 U.S. MAGISTRATE JUDGE

24 DATED: 9/20/2019